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Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms

Report of the Secretary-General

Addendum*

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* This information was received after the submission of the main report.

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II. Replies received from Member States

Djibouti

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[30 August 2007]

1. Pursuant to paragraph 1 of General Assembly resolution 61/89 of 6 December 2006, entitled "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", in which the General Assembly "requests the Secretary-General to seek the views of Member States on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, and to submit a report on the subject to the General Assembly at its sixty-second session", the Republic of Djibouti has the honour to submit herewith its position on the topic, with a view to contributing to the elaboration of the future arms trade treaty.

Introduction

2. The Republic of Djibouti is a country with an area of 23,000 km^2 located in the Horn of Africa and bordered by Eritrea in the north, Ethiopia in the south-west, and Somalia in the south-east. It has 370 km of coastline along the Red Sea and the Gulf of Aden.

3. Djibouti's geostrategic position thus places it at the crossroads of major sea lanes between three continents, namely, Africa, Asia and Europe. This advantage makes it one of the busiest maritime and commercial ports in the world.

4. Moreover, the Republic of Djibouti is also the seaport of entry and exit for a hinterland containing several million people living in landlocked countries.

National context

5. Despite the multiplicity of latent and/or open conflicts in neighbouring countries, the Republic of Djibouti is a haven of peace in a subregion afflicted by hot spots and chronic instability.

6. Thus, the Republic of Djibouti has been spared the armed criminality so prevalent in the other countries of the subregion. This is noteworthy, and far from typical, in that the country and its civilian population do not even have any tradition of possessing or using firearms.

7. The laws of Djibouti are very rigorous in this regard and strictly prohibit civilians from carrying firearms; only members of the armed forces, gendarmerie or police are allowed to carry such weapons.

8. The Republic of Djibouti, true to its cultural traditions as a peaceful nation and crossroads of cultures, where commerce is a part of everyday life in the quest for prosperity, has established peace as a valuable underlying principle. Its population, which is busy trading and taking advantage of the opportunities offered by the

country's international port, firmly rejects any armed violence and any desire to possess weapons.

International context

9. True to its values based on a culture of peace, the Republic of Djibouti has signed all the international agreements and conventions aimed at protecting the well-being and integrity of the human person, in accordance with international law.

10. We will limit ourselves here, however, to the topic of small arms and light weapons.

11. In addition to the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons and the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, the Republic of Djibouti has signed the Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa and the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa.

12. It is also a founding member of the Regional Centre on Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (RECSA) and is one of the first 10 countries to have participated in the pilot project entitled "Small arms transparency and control regime in Africa (SATCRA)", initiated by the United Nations Regional Centre for Peace and Disarmament in Africa.

13. Thus, following the example of the other members of RECSA (formerly "Nairobi Secretariat", since its members were signatories of the Nairobi Declaration), it set up a national commission to combat small arms and light weapons, composed of representatives of all national institutions concerned with small arms and light weapons (customs, judiciary, army, police, gendarmerie, associations, foreign affairs office, civil society and others), which now serves as a mechanism for intervention in all activities aimed at prevention, surveillance and destruction of illicit small arms and light weapons.

Aspects of arms trade to be covered by the arms trade treaty

14. In the interest of regulating international trade in conventional weapons, the States Members of the United Nations have begun to elaborate a legally binding international arms trade treaty. During sessions of the General Assembly, more and more members have expressed their willingness to launch the official process of negotiating such a treaty.

15. The Republic of Djibouti had the pleasure of being among the countries supporting the resolution on an arms trade treaty proposed by the United Kingdom, which was adopted by the First Committee in October 2006.

16. Despite the recent adoption of other instruments for the control and regulation of the illicit proliferation of small arms and light weapons, such as the international instrument to enable States to identify and trace, in a timely and reliable manner, illicit small arms and light weapons, the Republic of Djibouti is firmly convinced

that an international treaty would make a significant contribution towards curbing the proliferation and illicit trafficking of small arms and light weapons because it would be legally binding. Such a treaty would eventually save lives and create conditions more conducive to development, particularly in the countries of Africa.

17. The irresponsible and poorly regulated arms trade fosters civil conflict, serious human rights violations and flagrant breaches of international humanitarian law, thereby destabilizing countries and regions and undermining sustainable development.

18. The rising number of subregional, regional and multilateral agreements concluded in the past 10 years to curb international transfers of conventional weapons bears witness to the growing awareness that the problem of the proliferation of these weapons can be regulated only through international cooperation based on legally binding obligations on States.

19. In the past decade, many efforts have been made at the subregional, regional and multilateral levels to arrive at common rules to govern international arms transfers. Several general agreements on the control of arms transfers have been adopted, in particular in the United States of America, Europe and sub-Saharan Africa.

20. A crucial fact is that, by participating in regional or multilateral agreements to control arms transfers, States have already explicitly recognized that transfers of conventional weapons (including small arms and light weapons), which are likely to contribute to serious human rights violations or flagrant breaches of international humanitarian law, must be prohibited.

21. This consensus among a great many States is a solid basis for elaborating an arms trade treaty that will reflect the fundamental international legal obligations on States.

22. States have already demonstrated, by working together on the problem of weapons of mass destruction, that it is possible to conclude international agreements on the question of arms transfers. Moreover, subregional, regional and multilateral cooperation is important in the effort to control conventional weapons, and such cooperation has continued to increase.

23. Lastly, the adoption of General Assembly resolution 61/89 clearly demonstrates that the overwhelming majority of States believe it is time to elaborate an arms trade treaty.

Scope of application of an arms trade treaty

24. An arms trade treaty should recall the natural right of each State to self-defence, as enshrined in Article 51 of the Charter of the United Nations, and should acknowledge the right of every State to acquire legal weapons for self-defence and security needs, while respecting international norms.

25. States have the right to acquire conventional weapons for self-defence and for maintaining law and order, in accordance with international law and international norms.

26. The increasing globalization of the arms trade and its prejudicial effects on sustainable development constitute weighty arguments in favour of a global system to regulate all aspects of trade.

27. To be effective, an arms trade treaty will have to provide a mechanism to control the import, export, transfer, trans-shipment and illicit brokering of all conventional weapons, including the following:

- Heavy weapons;
- Small arms and light weapons;
- Parts and spare parts for all these weapons;
- Munitions, including explosives;
- Technologies used to manufacture conventional weapons.

28. One of the main objectives of an arms trade treaty is to formulate fundamental criteria to ensure that international transfers of conventional weapons are made in a responsible manner.

29. To determine the criteria to be applied, States should respect, in a balanced way, the principles enshrined in the Charter of the United Nations and other international instruments, including the principle of non-interference in the internal affairs of States, together with the right of peoples to take legitimate steps to exercise their inalienable right to self-determination.

Conclusion

30. A comprehensive arms trade treaty based on the principles enshrined in international law and international norms should be the cornerstone of this concerted global effort.

31. To be effective, the arms trade treaty should be pragmatic and should authorize legitimate international transfers of conventional weapons needed by States for self-defence and the maintenance of law and order, in accordance with international law and international norms.

32. However, in order to help reduce the illicit proliferation of weapons, such a treaty should also include a mechanism for authorizing international transfers that would take into account the obligations currently incumbent upon States under international law. An effective arms trade treaty should neither dilute these obligations nor contain ambiguous wording that would give rise to different interpretations of these State obligations.

33. Only an international arms trade treaty will make it possible to remedy the current situation — in which States are trying to use several different national and regional instruments to control international transfers of conventional weapons — by setting forth common, strict international standards for all States in order to ensure responsible arms trading.

34. By reducing considerably the number of cases of diversion of weapons and munitions to users who would threaten individual, national or international security, such a treaty will be extremely beneficial to the populations, States and regions in which the proliferation and abuse of weapons are widespread.

Mauritius

[Original: English]
[7 September 2007]

Mauritius was one of the supporters of the resolution on the arms trade treaty adopted by the First Committee in October 2006 and by the General Assembly in December 2006.

Mauritius supports a strong and effective arms trade treaty as an essential step in prohibiting arms transfers to destinations where they are likely to be used for grave human rights violations, to fuel conflict and to undermine development.

Mauritius is already party to various transfer control agreements and decisions at the subregional, regional and multilateral levels, including among others, the Southern African Development Community (SADC) Protocol on the Control of Firearms, Ammunition and Other Related Material of 2004, the Best Practice Guidelines for the implementation of the Nairobi Protocol on Small Arms and Light Weapons of 2005, the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, the Convention on the Prohibition of Anti-Personnel Mines and the Convention on Certain Conventional Weapons. However, Mauritius believes that given the complex nature of the arms trade in an increasingly globalized environment, there is a need for an international, comprehensive and transparent framework for all States to follow. This will ensure that States adhere to the highest standards of conduct, including adhering to international human rights and international humanitarian law standards.

Feasibility

It is very encouraging that 153 Member States voted in favour of beginning the arms trade treaty process under the aegis of the United Nations. Though a number of principles regulating arms transfers exist in legally binding subregional, regional and international agreements, legislative gaps remain a source of major concern to Member States. Mauritius believes that an arms trade treaty would serve to strengthen the principles firmly established in numerous international and regional treaties, declarations and resolutions of the United Nations and other multilateral and regional organizations that regulate existing arms transfers. The codification of these principles under one unique framework would reinforce the norms of international behaviour, particularly concerning the specific commercial practices where laxity and lack of political will still prevail.

Mauritius believes that an arms trade treaty should build on existing international law and codify existing best practices in responsible transfers. In this regard, the relevant broad principles contained in the following (but not limited to) documents, several of which Mauritius is a party to, could be used as a basis for drafting the arms trade treaty:

(a) Charter of the United Nations;

(b) Geneva Conventions and associated protocols;

(c) Convention on the Prevention and Punishment of the Crime of Genocide;

(d) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(e) International Covenant on Civil and Political Rights;

(f) International Covenant on Economic, Social and Cultural Rights;

(g) International treaties such as the Convention on the Prohibition of Anti-Personnel Mines and the Convention on Certain Conventional Weapons;

(h) Regional agreements including the Best Practice Guidelines for the implementation of the Nairobi Protocol on Small Arms and Light Weapons (2005); the SADC Protocol on the Control of Firearms, Ammunition and Other Related Material (2004), the Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons (2006);

(i) Other agreements such as the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001), the United Nations Guidelines for international arms transfer, the Central American Integration System (SICA) Code of Conduct on the Transfer of Arms, Ammunition, Explosives an Other Related Material (2005) and the European Union Code of Conduct.

Scope and parameters

Mauritius believes that the arms trade treaty should cover the broad category of arms that are listed in the United Nations Conventional Arms Register, including small arms and light weapons; landmines; ammunition; larger conventional weapons such as tanks and aircrafts; warships; combat aircrafts; missiles and missile launching equipment; and man-portable air defence systems (MANPADS), as well as components for the manufacture of such weapons.

Mauritius believes that the arms trade treaty should clearly recognize the undeniable right of a State party to acquire conventional arms for legitimate self-defence and law-enforcement needs, in accordance with international law. It also believes that decisions on weapons transfers should remain under the sovereignty of the Member State. However, the arms trade treaty should, at the same time, clearly outline the State's responsibilities and obligations under international treaties, international customary law and the principles enshrined in the Charter of the United Nations to promote and protect human rights. Mauritius strongly supports the strict control of transfers of conventional arms that can contribute to "conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development", as reflected in the General Assembly resolution of December 2006. Particular attention should be devoted to ensure that transfers of conventional arms do not contribute to situations of genocide or crimes against humanity, or violate United Nations arms embargoes. Mauritius, as an island State with a fully operational free port, would like the arms trade treaty to regulate not only the import, export, brokerage and transfer of conventional arms, but also their transit and trans-shipment.

In order to be effective, an arms trade treaty requires a certain degree of public transparency that would act as confidence-building measures among Member States.

Therefore, provisions of an arms trade treaty must cater for confidential information sharing among Member States.

Mauritius proposes that, in a bid to prevent any loophole in the arms trade treaty, the treaty apply to all aspects of government-sanctioned trade in conventional arms, including State-to-State; State-to-private end-user or non-State actors; commercial sales; leases, and loans/gifts or any other form of transfer for exhibition, expertise or research purposes.

There must be provisions to adequately monitor compliance, including appropriate penal sanctions for violators of the arms trade treaty.

International cooperation

There should be a system for ensuring the effective and comprehensive implementation of the arms trade treaty. In this regard, Mauritius believes that the arms trade treaty should make provisions for international cooperation programmes, including bilateral assistance through mutual agreement that would look into the assistance aspects of developing countries to enable the latter to effectively implement the treaty at the national level. Transitional periods should also be agreed upon before effective enforcement would start.

Conclusion

Mauritius is convinced that reaching an arms trade treaty is a long and arduous process. The challenges that lie ahead should not be underestimated. Mauritius remains totally committed to push the process forward and to contribute positively to the achievement of a comprehensive and legally and globally binding arms trade treaty. The process of formalizing the treaty is timely and responds to the urgency and imperatives of the moment.